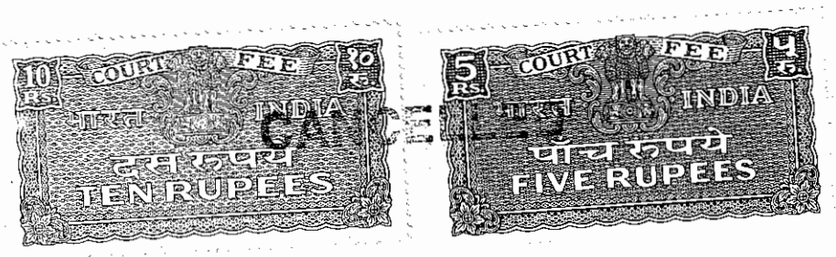

3
5

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

M. A. (C) NO. 864 /2007

APPELLANTS : 1] Narrottam Sinha S/o. Shri Kamta Prasad Sinha, R/o. Village Bhansoz, P.S. Aarang Distt. - Raipur (C.G.)

---------- **(Rider)**

2] Paras Ram Sinha S/o Unknown R/o. Village Bhansoz, P.S. Aarang Distt. - Raipur (C.G.)

---------- **(Owner)**

VERSUS

RESPONDENTS CLAIMANTS : 1] Santoshi Yadav Wd/o. Late. Manoj Kumar Yadav Aged about 20 years,

2] Gulshan Kumar S/o Manoj Kumar Yadav Aged about 01 years

3] Dhansai Yadav S/o Bisambhar Yadav Aged about 45 years,

4] Gauri bai Yadav W/o Dhansai Yadav Aged about 43 years,

All above are R/o Village Kosamkhunta, Post - Ganod, P.S. - Aarang Distt. - Raipur (C.G.)

-------- **(Claimants)**

R.R. No. Passed
Presented by Shri ... Advocate
Dated ... on ... R.H.

R.R. No. 1899/07
Presented by Shri M.K. Srivastava
Dated 26/6/07

(4)

(6)

5] Bajaj Allianz General Insurance Manager, Pandari, Raipur (C.G.)

--------(Non-applicant)

APPEAL UNDER SECTION 173 OF MOTOR VEHICLE ACT

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(41)

मामला क्रमांक M.A.(C) No. 864/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

D.B-: HON'BLE SHRI L.C. BHADOO, J. &
HON'BLE SHRI SUNIL KUMAR SINHA, J.

31.07.2007

Manoj Paranjpe, counsel for the appellants

Heard on admission.

This appeal u/s 173 of the Motor Vehicles Act 1988 has been preferred by the owner and rider being aggrieved by the award dated 04.4.2007 passed by 7th Addl. Motor Accident Claims Tribunal, Raipur, in Claim Case No.40/2007 whereby the learned Claims Tribunal has held the appellants responsible for amount of compensation. However, the insurance company has been exonerated from its liability

The brief facts giving rise to this appeal are that on 19.6.2005 while appellant no.1, herein, was riding the motorcycle bearing Regn.No.C.G.04-CD-9928, in rash and negligent manner, the said motorcycle hit against a standing rickshaw on V.I.P. Road, village Fundhar, as a result of which Manoj Yadav who was a pillion rider on the motorcycle sustained grievous injuries, resultantly he died. Appellant no.2 herein is the owner of the motorcycle. The motorcycle was insured with respondent no.5/Bajaj Allianz General Insurance Company Ltd.

Having heard counsel for the appellants, we have perused the contents of the policy. The policy issued in favour of appellant no.2 was a statutory policy and for pillion rider, no additional premium was paid, therefore, the Insurance Company cannot be held liable for the death of pillion rider Manoj Yadav and the learned Tribunal has rightly exonerated the Insurance Company.

GRJ

50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(42)

मामला क्रमांक M.A.C. No. 864 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

-2-

We are fortified in our view by the decision of the Apex Court reported in the matter of ***United India Insurance Company Ltd., Shimla –vs- Tilak Singh and others, 2006 AIR SCW 1822***. In para 21 of the said judgment, the Apex Court held that although the observations made in Asha Rani's case [(2003), 2 SCC 223] were in connection with carrying passengers in a goods vehicle, the same would apply with equal force to gratuitous passengers in any other vehicle also. Thus, Their Lordships upheld the contention of the appellant-Insurance Company that it owed no liability towards the injuries suffered by the deceased Rajender Singh who was a pillion rider, as the Insurance Policy was a statutory policy, and hence it did not cover the risk of death of or bodily injury to gratuitous passengers.

The appeal being devoid of merits is liable to be dismissed and the same is accordingly dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge

Rao

GRPRJ — FS/246— 2/2007 — 50,000.

18/9